

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the matter of	)	
	)	
Implementation of Section 621(a)(1) of the Cable	)	
Communications Policy Act of 1984 as amended	)	MB Docket No. 05-311
by the Cable Television Consumer Protection and	)	
Competition Act of 1992	)	
	)	

**COMMENTS OF  
COMMUNITY MEDIA ACCESS PARTNERSHIP  
IN RESPONSE TO THE FURTHER NOTICE  
OF PROPOSED RULEMAKING**

COMMUNITY MEDIA ACCESS PARTNERSHIP submits these comments in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking ("Further Notice").

1. The cities of GILROY, HOLLISTER AND SAN JUAN BAUTISTA are our local franchising authority. CMAP, the non-profit PEG TV station born out of the local franchise agreement, manages five local channels that air in the three cities we serve. We train residents in how to use our video equipment so that they can produce content for these channels. Our primary users are students, who through after school programs or independent study programs learn how to create PSAs, documentaries and talk shows for airing at CMAP. We cover 120 government meetings a year, and create dozens of documentaries on area non-profit services and

events. We oversee a fifty site I-Net that allows our producers to cover local events live on location, and also allows our local schools and cities to transfer data and voice without having to rent fiber lines from the phone companies. It is a tremendous cost savings to them, made possible through our local franchise agreement with the cable company. Charter Cable is the sole cable provider, with the franchise expiring in 12/09.

2. CMAP supports and adopts the comments of the Alliance for Community Media, the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, and the U.S. Conference of Mayors, filed in response to the Further Notice.

3. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at "facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment" (Order at ¶ 1).

4. We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act's goal of

ensuring that a cable system is “responsive to the needs and interests of the local community,” 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the Order are valid, they cannot, and should not, be applied to incumbent cable operators. By its terms, the “unreasonable refusal” provisions of Section 621(a)(1) apply to “additional competitive franchise[s],” not to incumbent cable operators. Those operators are by definition already in the market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

5. We strongly endorse the Further Notice’s tentative conclusion (at para. 142) that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from “preempt[ing] state or local customer service laws that exceed the Commission’s standards,” and from “preventing LFAs and cable operators from agreeing to more stringent [customer service] standards” than the FCC’s.

Respectfully submitted,

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